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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/532,667	04/27/2005	Yu Momose	2005_0727A	4877
513	7590	06/06/2007	EXAMINER	
WENDEROTH, LIND & PONACK, L.L.P.			HAVLIN, ROBERT H	
2033 K STREET N. W.				
SUITE 800			ART UNIT	PAPER NUMBER
WASHINGTON, DC 20006-1021			1609	
			MAIL DATE	DELIVERY MODE
			06/06/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/532,667	MOMOSE ET AL.	
	<b>Examiner</b> Robert Havlin	<b>Art Unit</b> 1609	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 20 March 2007.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 9-24 is/are pending in the application.
  - 4a) Of the above claim(s) 21-24 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 9, 10, 12, 14, 16-18 and 20 is/are rejected.
- 7) Claim(s) 9-20 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    - a) All    b) Some \* c) None of:
      1. Certified copies of the priority documents have been received.
      - Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
      - Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date: _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>4/27/05</u>   | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

**Status of the claims:** Claims 1-30 were pending. Claims 1-8 and 25-30 were cancelled. Claims 21-24 were amended to be depended on claim 9. Claims 9-24 are currently pending.

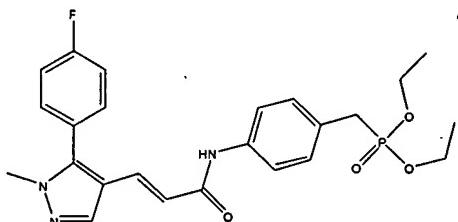
**IDS:** The IDS filed on 4/27/2005 has been considered.

**Priority:** This application is a 371 of PCT/JP03/13901 (10/30/2003) and claims foreign priority of JAPAN 2002-320153 (11/01/2002).

### ***Election/Restrictions***

1. Applicant's election without traverse of Group II:

*Group II, claim(s) 9-20, drawn to products of Formula (II).*



And the species of *diethyl [4-((2E)-3-{5-(4-fluorophenyl)-1-methyl-1H-pyrazol-4-yl}prop-2-enoyl)amino]benzylphosphonate* in the reply filed on 3/20/2007 is acknowledged.

The examiner has considered the elected species and did not find prior art during the search of the species, however anticipatory prior art was found when the examiner's search was broadened to within the scope of the generic claim 9 (see the following 102 rejection). Therefore, in accordance with the election of species requirement in the requirement for restriction/election, the claims are restricted to the elected species and all other subject matter is withdrawn from consideration.

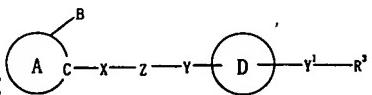
***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

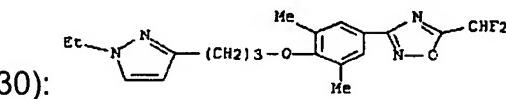
A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 9, 10, 12, 14, 16-18, and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by US 5,552,420.

The claims recite a genus of compounds with the formula: 

The '420 patent teaches compounds including the compound of example 18F (col. 29-

30):  . This compound corresponds to the instant claims as A=pyrazole, B=ethyl, X=propyl, Z=-O-, Y=bond, D=substituted phenyl, Y1=bond, R3=substituted oxadiazole, which falls into the genus of the generic claim 9 and anticipates it and dependent claims.

***Claim Objections***

Since the claims have been restricted to the elected species, claims 9-20 are objected to as reading on non-elected subject matter.

***Conclusion***

Claims 9, 10, 12, 14, 16-18, and 20 are rejected and claims 9-20 are objected to. The applicant should amend the claims to within an allowable scope or cancel the claims and submit new ones drawn only on an allowable scope.

***Correspondence***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert Havlin whose telephone number is (571) 272-9066. The examiner can normally be reached on Mon. - Fri., 7:30am-5pm EST.

If attempts to reach the examiner by telephone are unsuccessful the examiner's supervisor, Cecilia Tsang can be reached at (571)-272-0562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Robert Havlin  
Examiner

RH



JANET L. ANDRES  
SUPERVISORY PATENT EXAMINER